| INSTITUTION MDC G | GUAYNABO | INCIDENT REPOR | T NUMBER | 990301 |
|--|--------------------------------------|---------------------------------------|---------------------------|----------------------------|
| MATE NAME Gomez | , Fernando | REG_NO 1893 | 8-069 UNIT | BB |
| DATE OF INCIDENT - | 05-03-2002 | DATE OF INCIDE | NT REPORT | 05-07-2002 |
| OFFENSE CODE(S) | 305 and 329 | | | |
| SUMMARY OF CHARGES | | of anything not property value | | and Destroying an \$100 |
| 1. NOTICE OF CHAR | GE (S) | | | |
| A. Advanced written no | otice of charge (c | opy of Incident R | eport) was give | en to inmate on |
| (date) 05-08-2002 | at (time) 12 | 20 (by staff | member) Lt. | W. Rodriguez |
| B. The DHO Hearing was | s held on (date) | 06-03-2002 | at (time) | 1435 |
| C. The inmate was advi | sed of his/her ric | ghts before the D | HO by (staff me | ember): |
| Sergio Rivera, Cou | nselor on | (date) 05-1 | 3-2002 | and a copy |
| of the advisement of r | rights form is atta | ched. | | |
| II. STAFF REPRESE | NTATIVE | | | |
| A. Inmate waived right | to staff represer | tative. Yes: | X | No: |
| Inmate requested st | aff representative | and N/A | | appeared. |
| C. Requested staff report of option to postpone | | | | |
| that: N/A | | | | |
| D. Staff representativ | e N/ | Ā | V | was appointed. |
| III: PRESENTATION | OF EVIDENCE | | | |
| A. Inmate admits | denies X | the charge(s). | | |
| B. Summary of inmate s | tatement: | | | |
| Inmate Fernando Gor Education Department book is his, that is remember exactly wh | nt to have the l it was mailed to | oooks. Inmate | Gomez added | the damaged |
| C. Witness(es): | i | | | |
| 1. The inmate requested | d witness(es). | Yes: | N | lo: X |
| · · · · · · · · · · · · · · · · · · · | | | | |
| 2. The following person each witnesses' name, | ns were called as title, reg number | witnesses at this and statement as | hearing and appropriate.) | ppeared. (Include |

observations, written documents, etc.)

| ٦. | . The following persons requested were no | ot (| called for the m | ceason(s |) | given. | | | |
|--|---|---|--|--|--------------------|-------------------------------------|---------------------------------|-----------------------------------|----------|
| | N/A | | | | | | | | |
| 4. | Unavailable witnesses were requested to |) SI | ubmit written | Yes | | No | | N/A | X |
| D. | Documentary Evidence: In addition to the onsidered the following documents: | ne I | Incident Report | and Inv | est | igati | on, | the DH | 0 |
| wa in bc sh "L th me | ne damaged book (United States Codes brought to the hearing as evide mate's Fernando Gomez name and number. There were marks on the side appe with the "Law Library" stamp was Library" stamp had been altered be book's first page (top, right staning "Mobile Law Cart". Two separate Library" stamp. | ncembers of the second | e. The book' er were visib of the book c ed by the Edu oy peeling of e) the letter | s coveral consists cation f the lase MLC' | r th en D | was re side to in epart ack in were | emo des siz mer nk. | oved, of th ze and nt. T On tten. | e he |
| rev rep | Confidential information was used by DHO vealed to the inmate. The confidential information has been to be reliable because: | inf | ormation was do | cumented | li | n a se | epar | ate | |
| | N/A | | | | | | •• | | |
| ĽΥ | FINDINGS OF THE DHO | | de Distriction de la company | | | | e Vario | e de la como | |
| T | A. The act was committed as charged. | 12.1713*TE*W | | enter en | e and any | appara residing | and of the life | Managara 2000 c | - ig ste |
| | B. The following act was committed: | | 329 | | | | | <u> </u> | |
| 1 | C. No prohibited act was committed: Expu | nae | according to T | omata Di | | inlin | - DC | | — |

V. SPECIFIC EVIDENCE RELIED ON TO SUPPORT FINDINGS (Physical evidence,

Your inmate's due process rights were reviewed and read to you by the DHO. The 40 confirmed that you did not want a staff representative and did not want to all witnesses. You understood your due process rights and were ready to proceed with the DHO hearing.

The DHO finds that at approximately 3:00 P.M., on May 7, 2002, an inventory of your belongings showed you had altered and damaged government property valued in less than \$100. This is based on the reporting officer's account that on May 3rd, 2002, she was informed you were in the Special Housing Unit. The reporting officer called the Unit BB OIC and asked him to review your property for law library materials (photocopies and Program Statements) that you owed them (Education Dept.); to set aside any materials identified with the Law Library stamp for her review. When the reporting officer arrived to her office on May 7, 2002, at approximately 1:00 P.M., she found a bag full of legal materials with a note from Officer Massanet (BB OIC) advising the bag belonged to you. When the reporting officer reviewed the bag, she found not only some of the materials you owed, but also 4 volumes of law books that you were not authorized to have, including the United States Code Annotated Constitution Amendment 5. This book had been damaged and altered by removing the Law Library stamp and writing your name and register number. Also, the hard cover had been removed. This book has a value of \$40.75.

You denied the charges to the DHO stating you were granted an extension from the Education Department to have the books. You added the damaged book is yours, that it was mailed to you by your family, you do not remember exactly when. The DHO asked if you could provide evidence to show the book was yours. You indicated, probably not, that your family sent it long ago and probably they n't have receipts. You insinuated during the hearing the "Law Library" stamps are put on your book by the Education Department staff to incriminate you.

The DHO decided to give greater weight to the reporting officer's account of the incident and to the evidence at hand. You altered and damaged the book United States Code Annotated Constitution Amendment 5 by: 1) removing the hard cover; 2) removing the Law Library stamp placed on the sides of the book, and; 3) writing you own name and register number. You removed the "Law Library" stamp by peeling off the black ink. Your attempt to obliterate the stamp left a mark identical in size and shape to the "Law Library" stamp used by the Education Department to identify the law library books. Also, staff had conspicuously placed the "Law Library" stamp inside two separate pages of the book further proving the book does not belong to you. This book belongs to the mobile library cart as evidenced by the letters "MLC" on the first page. You implied wrong doing from the Education Department staff in order to incriminate you. Be reminded that as a professional, the reporting officer is legally and morally obligated to provide truthful statements.

Based of the greater weight of the evidence, the DHO finds that you violated code 329, Destroying or damaging property valued in less than \$100. The DHO expunged the charge of Code 305, Possession of anything not authorized.

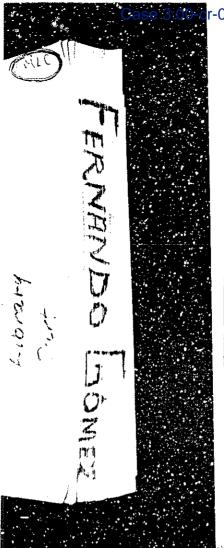
VI. SANCTION OR ACTION TAKEN

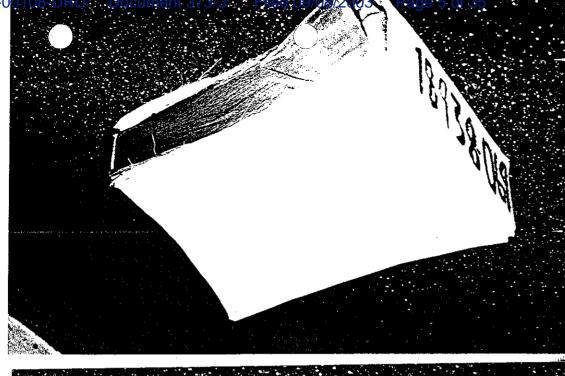
Monetary Restitution: \$40.75

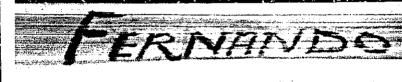
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VII. REASON FOR SANCTION OR ACTION TAKEN estroying or damaging government shows disregard for the rules and regulations of the institution. The sanction of monetary restitution for \$40.75 is imposed to show you that inmates will be held accountable for destroyed or damaged government property. VIII. APPEAL RIGHTS: The inmate has been advised of the findings specific, evidence relied on, action and reasons for the action. The inmate has been advised of his right to appeal this action within 20 calendar days under the Administrative Remedy Procedure. A copy of this report has been given to the inmate. Yes IX. DISCIPLINE HEARING OFFICER Printed Name Signature Date MIGDALIA TORRES, DHO 06/11/02 DELIVERED TO INMATE DATE TIME







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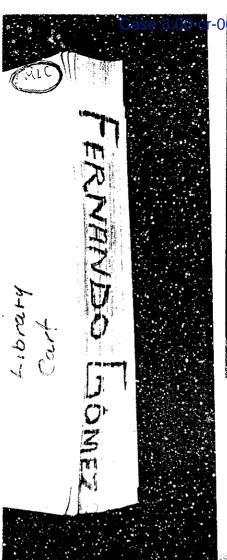
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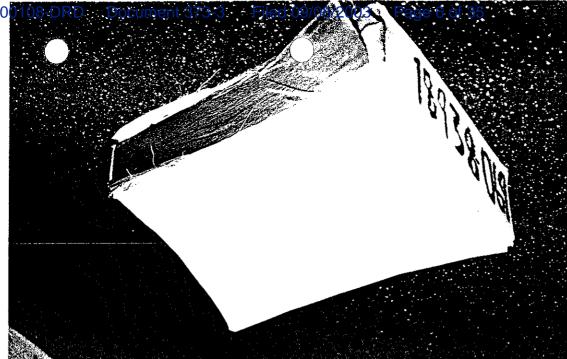
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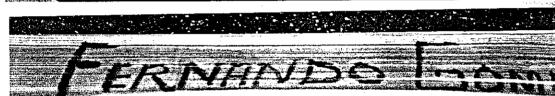
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